

UTAH CODE
(UNANNOTATED)

DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF SOLID AND HAZARDOUS WASTE

**ENVIRONMENTAL QUALITY CODE - MERCURY SWITCH
REMOVAL ACT**

(Title 19, Chapter 10, Sections 1001-1006)
(2008)



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Title 19 Chapter 6
ENVIRONMENTAL QUALITY CODE - HAZARDOUS
SUBSTANCES

PART 10
MERCURY SWITCH REMOVAL ACT

Table of Contents

19-6-1001. Title	1
19-6-1002. Definitions	1
19-6-1003 Board and executive secretary powers	1
19-6-1004. Mercury switch collection plan -- Reimbursement for mercury switch removal	1
19-6-1005. Reporting requirements.....	2
19-6-1006. Penalties	2

19-6-1001. Title.

This part is known as the "Mercury Switch Removal Act."

19-6-1002. Definitions.

- (1) "Board" means the Solid and Hazardous Waste Control Board created in Section 19-6-103.
- (2) "Executive secretary" means the executive secretary of the Solid and Hazardous Waste Control Board appointed under Section 19-6-107.
- (3) "Manufacturer" means the last person in the production or assembly process of a vehicle.
- (4) "Mercury switch" means a mercury-containing capsule that is part of a convenience light switch assembly installed in a vehicle's hood or trunk.
- (5) "Person" means an individual, a firm, an association, a partnership, a corporation, the state, or a local government.
- (6) "Plan" means a plan for removing and collecting mercury switches from vehicles.
- (7) "Vehicle" means any passenger automobile or car, station wagon, truck, van, or sport utility vehicle that may contain one or more mercury switches.

19-6-1003 Board and executive secretary powers.

- (1) By following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules:
- (a) governing administrative proceedings under this part;
- (b) specifying the terms and conditions under which the executive secretary shall approve, disapprove, revoke, or review a plan submitted by a manufacturer; and
- (c) governing reports and educational materials required by this part.
- (2) These rules shall include:
- (a) time requirements for plan submission, review, approval, and implementation;
- (b) a public notice and comment period for a proposed plan; and
- (c) safety standards for the collection, packaging, transportation, storage, recycling, and disposal of mercury switches.
- (3) The board may request the attorney general to bring an action for injunctive relief and enforcement of this part, including, without limitation, imposition of the penalty provided in Section 19-6-1006.
- (4) As authorized by the board, the executive secretary may:
- (a) review and approve or disapprove plans, specifications, or other data related to mercury switch removal;
- (b) enforce a rule by issuing a notice, an order, or both, which may be subsequently amended or revoked by the board; and
- (c) initiate an administrative action to compel compliance with this part and any rules adopted under this part.
- (5) The executive secretary shall establish a fee to cover the costs of a plan's review by following the

procedures and requirements of Section 63J-1-303.

19-6-1004. Mercury switch collection plan -- Reimbursement for mercury switch removal.

- (1) (a) Each manufacturer of any vehicle sold within this state, individually or in cooperation with other manufacturers, shall submit a plan, accompanied by a fee, to the executive secretary.
- (b) If the executive secretary disapproves a plan, the manufacturer shall submit an amended plan within 90 days.
- (c) A manufacturer shall submit an updated plan within 90 days of any change in the information required by Subsection (2).
- (d) The executive secretary may require the manufacturer to modify the plan at any time upon finding that an approved plan as implemented has failed to meet the requirements of this part.
- (e) If the manufacturer does not know or is uncertain about whether or not a switch contains mercury, the plan shall presume that the switch contains mercury.
- (2) The plan shall include:
- (a) the make, model, and year of any vehicle, including current and anticipated future production models, sold by the manufacturer that may contain one or more mercury switches;
- (b) the description and location of each mercury switch for each make, model, and year of vehicle;
- (c) education materials that include:
- (i) safe and environmentally sound methods for mercury switch removal; and
- (ii) information about hazards related to mercury and the proper handling of mercury;
- (d) a method for storage and disposal of the mercury switches, including packaging and shipping of mercury switches to an authorized recycling, storage, or disposal facility;
- (e) a procedure for the transfer of information among persons involved with the plan to comply with reporting requirements; and
- (f) a method to implement and finance the plan, which shall include the prompt reimbursement by the manufacturer of costs incurred by a person removing and collecting mercury switches.
- (3) In order to ensure that the costs of removal and collection of mercury switches are not borne by any other person, the manufacturers of vehicles sold in the state shall pay:
- (a) a minimum of \$5 for each mercury switch removed by a person as partial compensation for the labor and other costs incurred in removing the mercury switch;
- (b) the cost of packaging necessary to store or transport mercury switches to recycling, storage, or disposal facilities;
- (c) the cost of shipping mercury switches to recycling, storage, or disposal facilities;
- (d) the cost of recycling, storage, or disposal of mercury switches;
- (e) the cost of the preparation and distribution of educational materials; and
- (f) the cost of maintaining all appropriate

record-keeping systems.

(4) Manufacturers of vehicles sold within this state shall reimburse a person for each mercury switch removed and collected without regard to the date on which the mercury switch is removed and collected.

(5) The manufacturer shall ensure that plan implementation occurs by July 1, 2007.

19-6-1005. Reporting requirements.

(1) Each manufacturer that is required to implement a plan shall submit, either individually or in cooperation with other manufacturers, an annual report on the plan's implementation to the executive secretary within 90 days after the anniversary of the date on which the manufacturer is required to begin plan implementation.

(2) The report shall include:

- (a) the number of mercury switches collected;
- (b) the number of mercury switches for which the manufacturer has provided reimbursement;
- (c) a description of the successes and failures of the plan; and
- (d) a statement that details the costs required to implement the plan.

19-6-1006. Penalties.

A manufacturer who fails to submit, modify, or implement a plan according to this part and rules enacted under this part is subject to a civil penalty of not more than \$1,000 per day per violation as determined in an administrative proceeding conducted under 105.